



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

SEP - 4 2015

OFFICE OF
COMPLIANCE AND ENFORCEMENT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ms. Mara McMillen
Chief Operations Officer
McMillen Jacobs Associates
1401 Shoreline Drive
Boise, Idaho 83702

Re: Requirement to Provide Information Pursuant to Section 308 of the Clean Water Act

Dear Ms. McMillen:

The U.S. Environmental Protection Agency (EPA) is issuing an information request to McMillen Jacobs Associates. The request seeks information on the contractual agreement between McMillen Jacobs Associates, J.R. Simplot Foundation, Inc., and ESP Development LLC (ESP) pertaining to the Esther Simplot Park located at 625 N Whitewater Park Blvd, Boise, Idaho 83702.

Section 308 of the Clean Water Act (CWA), 33 U.S.C. § 1318, authorizes EPA to require the submission of records, reports, and other information for the purpose of determining whether any violations of the CWA have occurred, and to carry out any other provision of the CWA. By this letter, EPA requires McMillen Jacobs Associates to provide the requested information and documents by the dates specified in the enclosed Information Request. Please submit your written response to this Information Request to:

Maria Lopez
U.S. Environmental Protection Agency
Idaho Operations Office
950 W. Bannock Street, Suite 900
Boise, ID 83702

In addition, we ask McMillen Jacobs Associates to certify with the enclosed Affidavit for Information Request that your response to this Information Request is true, accurate, and complete.

Thank you for your attention to this matter. Please direct any technical questions regarding this Information Request to Maria Lopez at (208) 378-5616; for legal matters, contact Stephanie Mairs, Office of Regional Counsel, at (206) 553-7359.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kimberly A. Oyle" with a stylized flourish at the end.

Edward J. Kowalski
Director

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

IN THE MATTER OF:

McMillen Jacobs Associates
1401 Shoreline Dr.
Boise, ID 83702

Respondent.

INFORMATION REQUEST

Pursuant to Section 308 of the Clean Water Act ("CWA"), 33 U.S.C. § 1318, the U.S. Environmental Protection Agency ("EPA"), through the Director of the Office of Compliance and Enforcement, and upon the basis of available information, hereby makes the following Information Request to McMillen Jacobs Associates ("Respondent").

INSTRUCTIONS

1. Your response to this Information Request is due no later than September 14, 2015. The response should be sent or otherwise provided to:

Maria Lopez
U.S. EPA, Region 10
950 W. Bannock Street
Suite 900
Boise, ID 83702

Telephone Number: (208) 378-5616
e-mail: lopez.maria@epa.gov
Fax Number: (208) 378-5744

2. Each question in this Information Request must be answered completely. Provide a separate answer to each question and clearly identify the question number and subpart to which your answer and any documents provided respond. Incomplete, evasive, or ambiguous answers shall constitute a failure to respond to the Information Request and may subject Respondents to penalties.

3. This Information Request is not subject to the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501, *et seq.*

DEFINITIONS

All terms not defined herein shall have their ordinary meaning unless such terms are defined in Section 502 of the CWA, 33 U.S.C. §§ 1321 and 1362 and, or 40 C.F.R. § 122.2 and 40 C.F.R. § 112. Certain definitions from Section 502 of the CWA and 40 C.F.R. § 122.26 are provided below for ease of reference.

1. The term “Respondent” shall mean McMillen Jacobs Associates
2. The term “document” or “documents” shall mean any method of recording, storing or transmitting information, including but not limited to writings of any kind (records, reports, memoranda, emails, agreements, contracts, fax transmittals, notebooks and reports); any film or photographs; and any blueprints, schematics or drawings.
3. The term “Facility” shall mean all real property located in Ada County, Idaho in Section 4 and Section 5 of Township 3 North, Range 2 East, B.M. also known as the Esther Simplot Park located at 625 N Whitewater Park Blvd.
4. The term “Construction Activities” are earth-disturbing activities, such as the clearing, grading, and excavation of land.

5. The term “Construction Site” is the land or water where construction activities will occur and where stormwater controls are/ will be installed and maintained. The construction site includes construction support activities, which may be located at a different part of the property from where the primary construction activity will take place, or on a different piece of property altogether. The construction site is often a smaller subset of the lot or parcel within which the project is taking place.
6. The term “Earth-Disturbing Activity” or Land-Disturbing activity are actions taken to alter the existing vegetation and/or underlying soil of a site, such as clearing, grading, site preparation (e.g., excavating, cutting, and filling), soil compaction, and movement of stockpiling of top soils.
4. The term “Operator” is any party associated with a construction project that meets either of the following two criteria: (1) The party has operational control over construction plans and specifications; or (2) The party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit).

INFORMATION REQUEST

1. Describe the roles and responsibilities of the City of Boise (City), J.R. Simplot Foundation, Inc., ESP Development, LLC, and the Respondent for the design and construction of the Facility.
2. Describe the roles and responsibilities of all Operators at the Facility as defined above.


3. Provide a copy of the construction site plans and specifications and identify the party that is authorized to make changes.
4. Describe the process of making changes to construction site plans and specifications and approval of those changes and identify the party that is authorized to make changes.
5. Identify the party that has day-to-day operational control of activities at the Facility that are necessary to ensure compliance with the permit conditions (authorized to direct workers at the site to carry out activities required by the Construction General Permit).
6. Please provide a copy of the Contract Agreement between McMillen Jacobs Associates and J.R. Simplot Foundation, Inc, and ESP Development LLC (ESP).

ENFORCEMENT

Failure to provide all of the requested information on time or to adequately explain the basis for such failure, or making any false material statement or representation in response to this Information Request constitutes a violation of Section 308 of the CWA, which may result in an enforcement action and the imposition of civil and/or criminal penalties or fines of up to \$37,500 per day for each violation, as provided under Section 309 of the CWA, 33 U.S.C. § 1319, and Title 18 of the United States Code, 18 U.S.C. § 1001.

Call Maria Lopez, Office of Compliance and Enforcement, NPDES Compliance Unit, at (208) 378-5616, if you have any questions regarding technical matters, or Stephanie Mairs, Office of Regional Counsel, at (206) 553-7359, if you have any questions regarding legal matters.

Dated this 4 day of Sept, 2015.

A handwritten signature in blue ink, appearing to read "Edward J. Kowalski", is written over a horizontal line. The signature is stylized and cursive.

Edward J. Kowalski, Director
Office of Compliance and Enforcement

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

IN THE MATTER OF:

McMillen Jacobs Associates
1401 Shoreline Drive
Boise, ID 83702

) AFFIDAVIT FOR INFORMATION
) REQUEST
)
)

I, _____, being first duly sworn, hereby
certify that the enclosed response to the above-captioned Information Request is true,
accurate, and complete. I certify that the portions of this response which I did not
personally prepare were prepared by persons acting on behalf of the Respondent, under
my supervision and at my instruction, and that the information provided is true, accurate,
and complete. I make this certification both on my own behalf, and on behalf of the
Respondent, as its authorized representative.

Signature: _____ Dated: _____

Printed Name: _____

Title: _____

SUBSCRIBED and SWORN to before me this ____ day of _____, 2015.

NOTARY PUBLIC in and for the State of _____

residing at _____

My Commission expires _____